

PT 96-14  
Tax Type: PROPERTY TAX  
Issue: Charitable Ownership/Use

STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS

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NEIGHBORHOOD CENTER OF CICERO	)		
Applicant	)		
	)	Docket #s	93-16-708
v.	)		93-16-709
	)	Parcel Index #s	16-21-206-040 &
THE DEPARTMENT OF REVENUE	)		-041, -043, -044
OF THE STATE OF ILLINOIS	)		16-21-207-022 &
	)		-023, -024

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RECOMMENDATION FOR DISPOSITION

Appearances: Ms. Jennifer Prager Sodaro appeared on behalf of the Neighborhood Center of Cicero.

Synopsis:

The hearing in this matter was held at 100 West Randolph Street, Chicago, Illinois, on January 8, 1996, to determine whether or not Cook County parcels numbered 16-21-206-040, 16-21-206-041, 16-21-206-043 and 16-21-206-044, as well as parcels numbered 16-21-207-022, 16-21-207-023 and 16-21-207-024 should be exempt from real estate tax for the 1993 assessment year.

Ms Karen Koehl, president of the Neighborhood Center of Cicero (hereinafter referred to as the "applicant"), Rev. Diane Johnson, a member of the board of directors of the applicant and Father Jack Hurley, treasurer of the applicant, testified on behalf of the applicant.

The issues in this matter include first, whether the applicant was the owner of these parcels during the 1993 assessment year. The second issue is whether the applicant is a charitable organization. The last issue is whether these parcels were either being used by the applicant for charitable purposes or were in the process of being adapted for charitable use during the 1993 assessment year. Following the submission of all of the evidence and a review

of the record, it is determined that the applicant owned the parcels here in issue during all of the 1993 assessment year. It is also determined that the applicant qualifies as a charitable organization. Finally, it is determined that the applicant was both using these parcels for charitable purposes as well as adapting said parcels for exempt use during the 1993 assessment year.

Findings of Fact:

1. During February 1994, the Cook County Board of Appeals transmitted Applications for Property Tax Exemption To Board of Appeals concerning these parcels for the 1993 assessment year, to the Illinois Department of Revenue (hereinafter referred to as the "Department"). (Dept. Ex. Nos. 1 & 1J)

2. On November 3, 1994, the Department notified the applicant that it was denying the exemption of these parcels for the 1993 assessment year. (Dept. Ex. Nos. 2 & 2A)

3. By a letter dated November 10, 1994, the applicant requested a formal hearing in these matters. (Dept. Ex. 3)

4. The hearing held in these matters on January 8, 1996, was held pursuant to that request.

5. The applicant was incorporated pursuant to the General Not For Profit Corporation Act of Illinois under the name of Attracta Community Center, Inc. on August 2, 1991, for the following purposes:

Said corporation is organized exclusively for charitable purposes, including for such purposes, the making of distributions to organizations that qualify as exempt organizations under Section 501 (c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code. (Dept. Ex. No. 1Q)

6. On June 25, 1992, the Articles of Incorporation of Attracta Community Center, Inc. were amended, changing the name of the organization to The Neighbor Center of Cicero. (Dept. Ex. No. 1R)

7. The applicant acquired all of the parcels here in issue on or before June 30, 1992. (Dept. Ex. Nos. 1F & 1I)

8. The buildings on these parcels, prior to 1990, had been the church, rectory and convent of St. Attracta Parish. The Chicago Archdiocese closed the church in 1990. (Tr. p. 15)

9. After the closing of the buildings on these parcels they were vandalized and were frequented by persons selling drugs and also by prostitutes. (Tr. p. 52)

10. A group of area residents, including the persons who testified at the hearing, got together and organized the Attracta Community Center, Inc. in the hope of being able to acquire the buildings and use them for some beneficial purpose.

11. After considerable negotiations, the Archdiocese of Chicago agreed to sell these parcels to this organization on the conditions that it be used for beneficent purposes, that it not be used as a worship center and that the name be changed. The sale price was ten dollars. (Tr. p. 51)

12. When the applicant acquired these parcels, the first thing that had to be done was the buildings had to be sealed, locked and heated. This process went on from July of 1992 until the middle of 1993. (Tr. p. 30)

13. By May of 1993 the lower floor of the former convent now known as the annex was useable. During May of 1993, the Cook County Health Department began using several rooms on that floor for blood tests and also for counseling on Tuesdays. The Cook County Health Department also used space on this floor to conduct an infant car seat program as needed and to store the car seats. The CEDA housing assistance program began using a room on this lower level Mondays through Fridays during September of 1993. Neighborhood Center of Cicero, Youth in Crisis began using space on this floor during June of 1993. (Tr. pp. 38 & 39)

14. During 1993 the second floor of the annex was only used for storage because the rehabilitation of that floor was not complete. (Tr. p. 40)

15. The chapel, which is half way between the first floor and the second floor of the annex was used by Project Success beginning in November 1993.

Project Success was funded by a grant from the Governor's Office to work with the two nearest schools, Liberty School and Roosevelt School, to develop programs that would benefit the children, as well as bring the parents in for proper health care and social services as needed. (Tr. p. 40)

16. During 1993, the only area of the main building (the former church sanctuary) which was in use was the lower level which was used by CEDA for a summer feeding program for the children in the area. (Tr. pp. 40 & 41)

17. The first and second floors of the main building were still being rehabilitated during 1993. (Tr. p. 41)

18. By the end of 1995, I find that the entire building was in use for primarily charitable activities which were being provided to the community. (Tr. pp. 43-47)

19. These parcels are located in the Grant Works neighborhood which is the poorest and most depressed part of Cicero. (Tr. P. 23)

20. The Grant Works neighborhood is a Hispanic neighborhood. Beginning in November of 1993, Ms. Delia Barajas, who was the coordinator of Project Success, and who is bilingual was present in the building on a regular basis. Social service agencies in Cicero come to the applicant to provide them with space and also to provide bilingual persons to assist them in serving the growing Hispanic population of Cicero, which is centered in the Grant Works neighborhood. (Tr. pp. 54-56)

21. Rev. Johnson testified that it was the applicant's policy from the very beginning to waive or reduce rents in cases of need for social service organizations wishing to occupy the buildings on these parcels. (Tr. pp. 46 & 47)

22. During 1993 and the subsequent years, the applicant's primary source of funds for the rehabilitation work has been block grants from the Village of Cicero and also HUD and charitable contributions. (Tr. pp. 42-43 & Dept. Ex. No. 1AI)

23. Based on the foregoing, I find that the applicant owned the parcels here in issue during the entire 1993 assessment year.

24. I also find, that since the applicant waived or reduced rents for the organizations which occupied space in the buildings on these parcels, as said space was rehabilitated, that the benefits derived were for an indefinite number of persons, that charity is dispensed to all who need and apply for it, and that no obstacles are placed in the way of those seeking the benefits.

25. Since the applicant is organized pursuant to the General Not For Profit Corporation of Illinois, I find that the applicant has no capital, capital stock, or shareholders. I also find that the applicant does not profit from the enterprise.

#### Conclusions of Law:

Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

35 **ILCS** 205/19.7 exempts certain property from taxation in part as follows:

All property of institutions of public charity, all property of beneficent and charitable organizations, whether incorporated in this or any other state of the United States,...when such property is actually and exclusively used for such charitable or beneficent purposes, and not leased or otherwise used with a view to profit,....

It is well settled in Illinois, that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944). Finally, in ascertaining whether or not a property is

statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967).

In the case of Methodist Old Peoples Home v. Korzen, 39 Ill.2d 149 (1968), the Illinois Supreme Court laid down six guidelines to be used in determining whether or not an organization is charitable. Those six guidelines read as follows: (1) the benefits derived are for an indefinite number of persons; (2) the organization has no capital, capital stock, or shareholders, and does not profit from the enterprise; (3) funds are derived mainly from private and public charity, and are held in trust for the objects and purposes expressed in its charter; (4) charity is dispensed to all who need and apply for it; (5) no obstacles are placed in the way of those seeking the benefits, and (6) the primary use of the property is for charitable purposes. Based on the findings of fact, I conclude that the applicant met each of the foregoing six guidelines during the 1993 assessment year.

Illinois courts have held property to be exempt from tax where it has been adequately demonstrated that the property is in the actual process of development and adaptation for exempt use. Illinois Institute of Technology v. Skinner, 49 Ill.2d 59 (1971); People ex rel. Pearsall v. Catholic Bishop of Chicago, 311 Ill. 11 (1924); In re Application of County Collector, 48 Ill.App.3d 572 (1st Dist. 1977); and Weslin Properties, Inc. v. Department of Revenue, 157 Ill.App.3d 580 (2nd Dist. 1987). In this case, the applicant acquired these parcels and the buildings thereon, on or before June 30, 1992. The evidence shows that the applicant immediately began to secure these buildings and to rehabilitate them so they could be used for charitable purposes. This process continued through December 31, 1995, by which time both the main building and the annex were essentially available for charitable use. During the 1993 assessment year, only the lower level of the annex and the basement of the main building were sufficiently rehabilitated so as to be available for use, and these areas were in fact rented to various social service

agencies and the Cook County Health Department which used said areas for various charitable purposes.

35 **ILCS** 205/19.9 exempts certain property from taxation in part as follows:

All market houses, public squares and other public grounds owned by a municipal corporation and used exclusively for public purposes....

The Cook County Health Department qualifies for exemption pursuant to the above cited provision which requires both ownership and use.

The Supreme Court in the case of Childrens Development Center v. Olson, 52 Ill.2d 332 (1972), held that where one exempt entity leases property to another exempt entity, which uses said property for an exempt purpose, the lease will not be considered a lease for profit. Consequently, the leases from the applicant to the Cook County Health Department and the various social service agencies were not leases for profit. In fact, under some of these leases the rent was waived or reduced.

I therefore conclude that the applicant owned the parcels here in issue during all of the 1993 assessment year. I further conclude that the applicant is a charitable organization. Finally, I conclude that the applicant was both using these parcels for charitable purposes as well as adapting said parcels for charitable use during the entire 1993 assessment year.

I therefore recommend that Cook County parcels numbered 16-21-206-040, 16-21-206-041, 16-21-206-043, and 16-21-206-044 as well as parcels numbered 16-21-207-022, 16-21-207-023, and 16-21-207-024 and the buildings located thereon, be exempt from real estate tax for the 1993 assessment year.

Respectfully Submitted,

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George H. Nafziger  
Administrative Law Judge  
May , 1996